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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

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PINKBERRY, INC.

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 PINKBERRY, INC., a California
13 corporation,

14 Plaintiff,

15 vs.

16 JTRA, LLC d/b/a YOBERRY, a Florida
17 Limited Liability Company,

18 Defendant.

Case No.

CV08-05930 (SVW) (CWK)

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR:**

1. **FEDERAL TRADEMARK
INFRINGEMENT;**
2. **FEDERAL UNFAIR
COMPETITION;**
3. **FEDERAL FALSE
DESIGNATION OF ORIGIN;**
4. **STATE UNFAIR COMPETITION;**
5. **STATE INJURY TO BUSINESS
REPUTATION; AND**
6. **UNJUST ENRICHMENT**

1 Plaintiff Pinkberry, Inc. ("Pinkberry") for its Complaint against Defendant
2 JTRA, LLC d/b/a Yoberry ("Yoberry"), alleges as follows:

3
4 **JURISDICTION AND VENUE**

5 1. This is a complaint for injunctive relief and damages based on trademark
6 infringement, unfair competition, and false designation of origin under 15 U.S.C.
7 Section 1051 *et seq.*, as amended (hereinafter "Lanham Act"), as well as related state
8 law claims.

9 2. This Court has subject matter jurisdiction over this action under the
10 Lanham Act, 15 U.S.C. § 1121; 28 U.S.C. § 1338(a) (any act of Congress relating to
11 patents, copyrights and trademarks); and the doctrines of ancillary and pendant
12 jurisdiction.

13 3. This Court has personal jurisdiction over Yoberry because Yoberry
14 purposefully availed itself of the privilege of conducting activities in California,
15 thereby invoking the benefits and protections of its laws. Yoberry's website states
16 that it is seeking to franchise nationally and soliciting applications from "interested
17 franchisees" nationally, including in California. On information and belief, Yoberry's
18 representatives also have met with at least one potential franchisee in Los Angeles,
19 California.

20 4. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) and (3)
21 because a substantial part of the events giving rise to the claims occurred in this
22 district, a substantial part of the property that is the subject of the action is situated in
23 this district, and Yoberry was and is subject to personal jurisdiction in this district at
24 the time the action was commenced.

25
26 **PARTIES**

27 5. Pinkberry is, and at all times relevant hereto has been, a corporation
28 organized and existing under the laws of the State of California, having a place of

business at 6310 San Vicente Boulevard, Suite 100, Los Angeles, California 90048. Pinkberry's primary line of business is the sale of frozen yogurt with optional toppings that include, among other things, fresh fruit, cereals and nuts, as well as smoothies and shaved ice (the "Pinkberry Products") under the distinctive Pinkberry branding. Pinkberry operates stores throughout Los Angeles and elsewhere within this district as well as in interstate commerce.

6. On information and belief, Yoberry is, and at all times relevant hereto has been, a limited liability company, having a place of business at 1 Seminole Way, Fort Lauderdale, Florida 33314. Yoberry's primary line of business is the sale of frozen yogurt with optional toppings that include, among other things, fresh fruit, cereals and nuts, as well as smoothies and shaved ice which deliberately imitates Pinkberry's highly distinctive branding.

SUMMARY OVERVIEW OF COMPLAINT

7. Much the way that Apple Computers revolutionized the computer industry, raising the design standards and operating systems of the previously staid "beige box" computer market, Pinkberry has revolutionized the yogurt business by offering a product selection and consumer experience that are uniquely Pinkberry. Since its opening, Pinkberry has been featured in numerous national publications such as Time, Fortune, Los Angeles Times, New York Times, and Reuters, and has been the subject of countless internet blogs. See, true and correct copies of a sampling of articles discussing Pinkberry attached hereto as **Exhibit "A"** and incorporated by reference. These national publications have recognized the unique and highly distinctive look and feel of Pinkberry stores, noting, for example, that Pinkberry was responsible for "help[ing to] revive the sagging frozen yogurt industry"¹ and

¹ Hwang & Lee, *Simple by Design*, TIME MAGAZINE, March 12, 2008.

“develop[ing] a look that helped create a cult factor.”² Among many of its other acclaims and accolades, *The Los Angeles Times* has called Pinkberry “a phenomenon, creating four-times-a-week addicts and spawning celebrity devotion, along with a chorus of imitators...”³ More recently, *The Los Angeles Times* opinion section made the tongue-in-cheek suggestion that the Los Angeles Coliseum should be renamed “Pinkberry Coliseum.”⁴ Indeed, Pinkberry’s popularity, success, and fame in the yogurt business are unparalleled. Pinkberry was even showcased in an American Express national television advertisement. See true and correct copies of the American Express television advertisement stills, attached hereto as **Exhibit “B”** and incorporated by reference.

8. Pinkberry’s success has been noted by its competitors and would-be competitors, including Yoberry. On information and belief, Yoberry’s branding is a deliberate imitation of the Pinkberry branding and was implemented to build market share and a customer base by exploiting Pinkberry’s renowned trade name and trademarks and wrongfully trade upon Pinkberry’s reputation and goodwill.

9. Yoberry has sought to profit from Pinkberry’s success by using the YOBERRY trademarks (the “YOBERRY Marks”) to market and sell products that are identical to the Pinkberry Products, thereby infringing upon Pinkberry’s registered trademarks, service marks, and trade name (collectively, the “PINKBERRY Marks”).

10. Yoberry’s wrongful acts create a likelihood of confusion in the minds of consumers as to the sponsorship, endorsement, association, or approval of Yoberry’s products by Pinkberry. Accordingly, Pinkberry has been and continues to be damaged by Yoberry’s infringing activities, thereby necessitating this lawsuit.

² Boyle, *Starbucks Founder Bites Into Pinkberry*, FORTUNE, October 16, 2007.

³ Menn, *Welcome Jolt for Pinkberry*, LOS ANGELES TIMES, October 16, 2007.

⁴ Zirin, *The Pinkberry Coliseum*, LOS ANGELES TIMES, June 29, 2008

ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF

A. Pinkberry's Creation and First Use of Its PINKBERRY Trademarks, Service Marks, and Trade Name

11. Commencing in or about January of 2005, Pinkberry created, developed and began marketing and selling the Pinkberry Products through its distinctive Pinkberry restaurants.

12. Since approximately January of 2005, Pinkberry has been using and is currently using its PINKBERRY Marks in connection with the marketing and sale of the Pinkberry Products, restaurants and related products and services. Pinkberry owns all rights in and to the federal registrations for the following PINKBERRY Marks, each of which is valid and subsisting:

<u>TRADEMARK</u>	<u>REG. NO.</u>	<u>ISSUE DATE</u>	<u>GOODS AND SERVICES</u>
PINKBERRY	3,302,143	October 2, 2007	Frozen yogurt; frozen yogurt based dessert, combined with fruit, nuts, cereal and shaved ice and rice cakes; and smoothies
PINKBERRY	3,460,697	July 8, 2008	Restaurant services; restaurants; take-out restaurant services, café-restaurants; fast-food restaurants
Stylized Leaf and Berry Swirl Design	3,461,027	July 8, 2008	Express restaurant services, food kiosk services, and carry-out restaurant services featuring frozen yogurt-based desserts, frozen dairy desserts, smoothies and shaved ice
PINKBERRY & Stylized Leaf and Berry Swirl Design	3,460,702	July 8, 2008	Restaurant services; restaurants; take-out restaurant services; café-restaurants; fast-food restaurants

See, true and correct copies of those registrations attached hereto as Exhibits "C" through "F" and incorporated by reference.

1 13. Since Pinkberry opened its first restaurant in the United States in or about
2 January of 2005, its Pinkberry Products, restaurants and services have prominently
3 featured the PINKBERRY Marks to identify them and to identify Pinkberry as their
4 source.

5 14. Pinkberry has expended substantial time, money, and effort in promoting
6 its Pinkberry Products, restaurants and related products and services through the use
7 of its PINKBERRY Marks and in enforcing its rights in its PINKBERRY Marks
8 throughout the United States.

9 15. By virtue of Pinkberry's investments, the PINKBERRY Marks have
10 become associated in the minds of consumers and in the minds of the general public
11 with Pinkberry and have become assets of substantial value to Pinkberry and symbols
12 of its quality products and valuable goodwill. As a result of its efforts and success, in
13 less than three (3) years, Pinkberry has expanded from one location in West
14 Hollywood, California to over 60 locations in the United States, with current plans to
15 continue to expand nationally and to enter international markets.

16 16. Since January 2005, the Pinkberry Products, restaurants and services, as
17 identified by the PINKBERRY Marks, have been widely used and recognized in the
18 United States. *See e.g. Hwang & Lee, Simple by Design, TIME MAGAZINE, March 12,*
19 *2008 (describing Pinkberry's successes) and other articles attached hereto as*
20 **Exhibit "A"** and incorporated by reference.

21
22 **B. Yoberry's Unlawful Conduct**

23 17. On information and belief, since on or about January 18, 2008, Yoberry
24 has sold the same products as the Pinkberry Products under the confusingly similar
25 YOBERRY Marks and using Pinkberry's photographs. *See true and correct copies of*
26 *Yoberry's imitation of the PINKBERRY Mark and use of Pinkberry's photographs*
27 *attached hereto as Exhibit "G" and incorporated by reference. See also true and*
28 *correct copies of Pinkberry's photographs attached hereto as Exhibit "H" and*

1 incorporated by reference.

2 18. Yoberry's use of the YOBERRY Marks in the promotion, advertising and
3 sale of directly competitive frozen yogurt products and services constitutes the use in
4 commerce of a colorable imitations, copies and reproductions of the PINKBERRY
5 Marks, is deceptively and confusingly similar to Pinkberry's use of the PINKBERRY
6 Marks for identical products and is likely to cause confusion, mistake, or deception in
7 the minds of the public.

8 19. Pinkberry has not consented to, sponsored, endorsed, or approved
9 Yoberry's use of the PINKBERRY Marks or Pinkberry's photographs in connection
10 with any of Yoberry's products or services.

11 20. Yoberry's acts of improper use and promotion of the PINKBERRY
12 Marks are likely to cause confusion or mistake in the minds of consumers as to the
13 sponsorship, endorsement, association, or approval of Yoberry's products and services
14 by Pinkberry. Likelihood of confusion is and will only be exacerbated by the fact that
15 Yoberry's products and services are directly competitive with and/or highly related to
16 Pinkberry's products and services. Yoberry's and Pinkberry's products are likely to
17 be purchased by the same types of consumers, advertised and promoted in the same
18 and/or similar advertising channels, and marketed and sold in similar retail
19 establishments.

20 21. On information and belief, the foregoing actions of Yoberry have been
21 knowing, deliberate, willful, and in utter disregard of Pinkberry's rights.

22 22. Yoberry's unlawful activity results in irreparable harm and injury to
23 Pinkberry. Among other harms, it deprives Pinkberry of its absolute right to
24 determine the manner in which its image is presented to the general public through its
25 products and services; deceives the public as to the origin and sponsorship of such
26 products and services; wrongfully trades upon, and cashes in on, Pinkberry's
27 reputation and exclusive rights in its trademarks; and irreparably harms and injures
28 Pinkberry's business reputation. As a direct and proximate result of Yoberry's

1 conduct set forth above, Pinkberry has been injured and damaged in an amount to be
2 proven.

3 23. Yoberry's conduct is continuing, and will continue, unless enjoined by
4 the Court.

5 24. Unless Yoberry is enjoined from engaging in the infringing conduct
6 described above, Pinkberry will suffer irreparable injury and further damage. Thus, it
7 would be difficult to ascertain the amount of compensation which could afford
8 Pinkberry adequate relief for the acts of Yoberry present and threatened, and
9 Pinkberry's remedy at law is not adequate to compensate for said harm and damage.

10 **FIRST CLAIM FOR RELIEF**

11 **TRADEMARK INFRINGEMENT**

12 **UNDER 15 U.S.C. § 1114 [LANHAM ACT § 32]**

13 25. Pinkberry repeats paragraphs 1 through 24, above, and incorporates the
14 allegations thereof as if herein set forth in their entirety.

15 26. Pinkberry has used its PINKBERRY Marks in connection with, and to
16 identify the source of the Pinkberry Products and to distinguish those products from
17 similar products offered by other companies, by, and without limitation, prominently
18 displaying the PINKBERRY Marks on Pinkberry's storefronts, employees' uniforms,
19 cups, to-go containers and bags, and advertising and promotional materials distributed
20 throughout the United States, including, without limitation, on its website:
21 www.pinkberry.com.

22 27. Yoberry's use of the YOBERRY Marks in connection with advertising,
23 promotion and sale of directly competitive products and services infringes Pinkberry's
24 registered PINKBERRY Marks and is likely to cause confusion, mistake, or deception
25 of the public as to the identity, source and/or sponsorship of Yoberry's products and
26 services.

27 28. Yoberry's use of the YOBERRY Marks has been made notwithstanding
28

Pinkberry's well-known and prior-established rights in the PINKBERRY Marks and with both actual and constructive notice of Pinkberry's federal trademark registrations and rights under 15 U.S.C. § 1072.

29. On information and belief, Yoberry has intentionally adopted and continued to use the YOBERRY Marks with the intent of causing confusion, mistake, or deception of the public as to the identity and source of Yoberry's products and services.

30. The above acts by Yoberry constitute trademark infringement. By reason of the foregoing, Yoberry has violated and will continue to violate § 32(1) of the Lanham Act, 15 U.S.C. § 1114(1), unless enjoined by the Court.

31. Yoberry's infringing activities have caused, and unless enjoined by this Court, will continue to cause substantial, immediate, and irreparable injury and other damage to Pinkberry's business, reputation and goodwill.

32. Pinkberry has no adequate remedy at law unless Yoberry's infringing conduct is enjoined by this Court.

SECOND CLAIM FOR RELIEF

UNFAIR COMPETITION

UNDER 15 U.S.C. § 1125(a) [LANHAM ACT § 43(a)]

33. Pinkberry repeats paragraphs 1 through 32, above, and incorporates the allegations thereof as if herein set forth in their entirety.

34. Yoberry's improper use of the YOBERRY Marks in connection with the advertising, promotion and sale of directly competitive products and services constitutes unfair competition under 15 U.S.C. § 1125(a).

35. Yoberry's use of the YOBERRY Marks is likely to cause confusion, mistake, or deception among consumers as to whether Yoberry is affiliated, connected or associated with Pinkberry, and as to whether Pinkberry is the source of Yoberry's products and commercial activities or has sponsored or approved them.

1 36. Yoberry's unfair competition has caused and will continue to cause
2 irreparable injury and other damage to Pinkberry's business, reputation and goodwill
3 in its PINKBERRY Marks for which Pinkberry has no adequate remedy at law.
4

5 **THIRD CLAIM FOR RELIEF**

6 **FALSE DESIGNATION OF ORIGIN**

7 **UNDER 15 U.S.C. § 1125(a) [LANHAM ACT § 43(a)]**

8 37. Pinkberry repeats paragraphs 1 through 36, above, and incorporates the
9 allegations thereof as if herein set forth in their entirety.

10 38. Yoberry's YOBERRY Marks are such colorable imitations and copies of
11 the PINKBERRY Marks that Yoberry's use thereof in connection with directly
12 competitive products and services is likely to cause confusion, mistake, or deception
13 as to whether Yoberry is affiliated, connected, or associated with Pinkberry, and as to
14 whether Pinkberry is the source of Yoberry's products, services, or commercial
15 activities or has sponsored or approved them.

16 39. Yoberry's use of the YOBERRY Marks is a false designation of the
17 origin of Yoberry's products, services or commercial activities and/or a false or
18 misleading representation concerning such products, services or commercial activities
19 under 15 U.S.C. § 1125(a).

20 40. As a direct and proximate result of the violations identified herein,
21 Pinkberry has been injured in its business and property. Pinkberry has suffered
22 damages in excess of the jurisdictional minimum of this Court in an amount to be
23 proven at trial.
24

25 **FOURTH CLAIM FOR RELIEF**

26 **UNFAIR COMPETITION**

27 **UNDER CALIFORNIA BUSINESS AND PROFESSIONS CODE**

28 **§ 17200 *et seq.***

1 41. Pinkberry repeats paragraphs 1 through 40, above, and incorporates the
2 allegations thereof as if herein set forth in their entirety.

3 42. Yoberry's use of YOBERRY Marks and its use of Pinkberry's
4 photographs, in connection with the advertising, promotion and sale of Yoberry's
5 products in direct competition with the Pinkberry Products constitute unfair
6 competition.

7 43. Pursuant to California Business and Professions Code § 17203, Pinkberry
8 is entitled to preliminary and permanent injunctive relief ordering Yoberry to cease
9 this unfair competition, as well as disgorgement of all of Yoberry's profits associated
10 with this unfair competition.

11
12 **FIFTH CLAIM FOR RELIEF**
13 **INJURY TO BUSINESS REPUTATION**
14 **CALIFORNIA COMMON LAW**

15 44. Pinkberry repeats paragraphs 1 through 43, above, and incorporates the
16 allegations thereof as if herein set forth in their entirety.

17 45. Yoberry's use of the YOBERRY Marks injures and creates likelihood of
18 injury to Pinkberry's business reputation because persons encountering Yoberry's
19 products and services will be misled into believing that Pinkberry is affiliated with or
20 related to Yoberry, and any adverse reaction by the public to Yoberry, the quality of
21 Yoberry's products, or the nature of its business will injure the business reputation of
22 Pinkberry and the goodwill that Pinkberry has enjoyed and enjoys in connection with
23 its PINKBERRY Marks.

24
25 **SIXTH CLAIM FOR RELIEF**
26 **UNJUST ENRICHMENT**

27 46. Pinkberry repeats paragraphs 1 through 45 above, and incorporates by
28 reference the allegations thereof as if herein set forth in their entirety.

1 47. As a result of the conduct of Yoberry, Yoberry has been unjustly
2 enriched at the expense of Pinkberry and the law thereby implies a contract by which
3 Yoberry must pay to Pinkberry the amount by which, in equity and good conscience,
4 Yoberry has been unjustly enriched at Pinkberry's expense.

5
6 **WHEREFORE**, Pinkberry seeks judgment against Yoberry as follows:

7 1. That Yoberry and its agents, officers, servants, employees,
8 representatives, licensees, franchisees, successors, assigns, attorneys and all other
9 persons who are acting in concert or participation with any of them, and each of them,
10 be preliminarily and permanently enjoined from any further use of the YOBERRY
11 Marks or any other trademark, trade name or other designation that is confusingly
12 similar to the PINKBERRY Marks;

13 2. That Yoberry and its agents, officers, servants, employees,
14 representatives, licensees, franchisees, successors, assigns, attorneys and all other
15 persons who are acting in concert or participation with any of them, and each of them,
16 be preliminarily and permanently enjoined from any further acts of unfair competition
17 against Pinkberry;

18 3. That Yoberry be required to file with the Court and serve on Pinkberry
19 within thirty (30) days after entry of the injunction, a declaration under oath setting
20 forth in detail the manner and form in which Yoberry has complied with the
21 injunctions;

22 4. That, pursuant to 15 U.S.C. § 1117, Yoberry be held liable for all
23 damages suffered by Pinkberry resulting from the acts alleged herein;

24 5. That Pinkberry receive an award in the amount by which Yoberry has
25 been unjustly enriched;

26 6. That, pursuant to 15 U.S.C. § 1117, Yoberry be compelled to account to
27 Pinkberry for any and all profits derived by Yoberry from its illegal acts complained
28 of herein;

1 7. That, pursuant to California Business and Professions Code § 17203,
2 Yoberry be compelled to pay restitution and disgorge its ill-gotten gains;

3 8. That Yoberry be ordered pursuant to 15 U.S.C. § 1118 to deliver up for
4 destruction all labels, signs, prints, packages, wrappers, receptacles, advertisement,
5 menus, banners, or the like in possession or custody, or under the control of either
6 Yoberry bearing any of the YOBERRY Marks; and

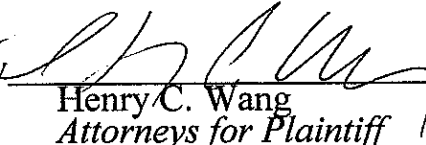
7 9. That the Court declare this action to be an exceptional case and award
8 Pinkberry its full costs and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117;

9 10. That the Court grant Pinkberry any other remedy to which it may be
10 entitled as provided for in 15 U.S.C. §§ 1116 and 1117 and/or under state law; and

11 11. For such other and further relief that the Court deems just and proper.

12
13 DATED: September 10, 2008

14 REED SMITH LLP

15
16 By 
17 Henry C. Wang
18 Attorneys for Plaintiff
19 PINKBERRY, INC.

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DOCSLA-15650178

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)
 PINKBERRY, INC., a California corporaion

DEFENDANTS
 JTRA, LLC d/b/a YOBERRY, a Florida
 Limited Liability Company

(b) County of Residence of First Listed Plaintiff (Except in U.S. Plaintiff Cases): **LOS Angeles, California**

County of Residence of First Listed Defendant (In U.S. Plaintiff Cases Only): **Fort Lauderdale, Florida**

(c) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Henry C. Wang (SBN 196537)
 William R. Overend (SBN 180209)
 Michael A. Garabed (SBN 223511)
 REED SMITH LLP
 355 South Grand Avenue, Suite 2900
 Los Angeles, CA 90071-1514

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question
 (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
 (Place an X in one box for plaintiff and one for defendant.)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☐ Yes ☒ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT: \$** \$75,000

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Federal Trademark Infringement (15 U.S.C. 1114); Federal Unfair Competition (15 U.S.C. 1125(a)); Federal False Designation of Origin (15 U.S.C. 1125(a)); State Unfair Competition (Cal. Bus. & Prof 17200); State Injury to Business Reputation; and Unjust Enrichment

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <hr/> REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <hr/> BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <hr/> CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <hr/> FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litig. <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <hr/> PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark <hr/> SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <hr/> FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

VIII(a). IDENTICAL CASES: Has this action been previously filed and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s):

FOR OFFICE USE ONLY: Case Number: CV08-05930

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(b). RELATED CASES: Have any cases been previously filed that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: List the California County, or State if other than California, in which **EACH** named plaintiff resides (Use an additional sheet if necessary)

☐ Check here if the U.S. government, its agencies or employees is a named plaintiff.

Los Angeles

List the California County, or State if other than California, in which **EACH** named defendant resides. (Use an additional sheet if necessary).

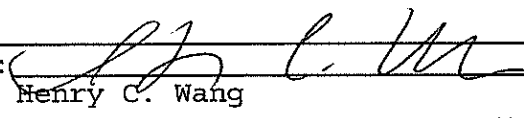
☐ Check here if the U.S. government, its agencies or employees is a named defendant.

Florida

List the California County, or State if other than California, in which **EACH claim arose.** (Use an additional sheet if necessary)

Note: In land condemnation cases, use the location of the tract of land involved.

Los Angeles

X. SIGNATURE OF ATTORNEY (OR PRO PER): Henry C. Wang  **Date** September 10, 2008

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Stephen V. Wilson and the assigned discovery Magistrate Judge is Carla Woehrle.

The case number on all documents filed with the Court should read as follows:

CV08- 5930 SVW (CWx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

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NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.